

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

DAWN BERRY, Administrator for the
Estate of Brittany A. Berry, Deceased,

Plaintiff,

v.

MISSOURI DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

No. 2:24 CV 25 CDP

MEMORANDUM AND ORDER

This matter is before the Court *sua sponte* upon review of the file. All of the named defendants in this case are Missouri state agencies or employees of those agencies. As none of the served defendants has answered or otherwise responded to plaintiff's Third Amended Complaint despite the Missouri Attorney General having notice of service being effected on them, I will order those defendants to answer or otherwise respond to plaintiff's Third Amended Complaint within ten (10) days of the date of this Order, or show cause why they have failed to plead or otherwise defend the claims asserted against them in the Third Amended Complaint.

Background

On May 13, 2025, I granted plaintiff leave to file a Third Amended Complaint and directed her to serve that amended complaint upon the named defendants within 45 days. The Third Amended Complaint was electronically filed on the Court's

docket that same date. Service was effected on defendants Missouri Department of Corrections (MDOC), Angela Mesmer, Allen Thompson, and Women’s Eastern Reception, Diagnostic, and Correctional Center (WERDCC) on May 13 when the Third Amended Complaint was electronically filed, as the Missouri Attorney General’s Office had previously entered its appearance for those defendants on earlier-filed complaints. Assistant Missouri Attorney General Kevin Smith appears on the docket sheet as their counsel of record and attorney Smith receives electronic notifications of all matters filed in the case. *See* Fed. R. Civ. P. 5(b)(1) (service on party’s attorney); Fed. R. Civ. P. 5(b)(2) (service effected on registered user by filing document with court’s electronic-filing system). On May 21, 2025, service by summons was effected on named defendants Anne L. Precythe,¹ Matt Sturm, Valarie Moseley, Travis Terry, and Matt Briesacher – all of whom are employees of the MDOC. Plaintiff’s claims against defendant Timothy Walner were recently dismissed with prejudice for failure to prosecute. (ECF 63.)


Despite being served with plaintiff’s Third Amended Complaint, none of the served defendants has answered or otherwise responded to that amended complaint and the time to do so has passed. Inexplicably, the Missouri Attorney General has not even entered an appearance for the MDOC employees who were served on May 21, despite receiving notice that service was effected upon them. I will therefore

¹ The caption of the Third Amended Complaint misspells defendant Precythe’s last name as “Prescythe.” The name is correctly spelled in the body of the pleading.

direct all served defendants to answer or otherwise respond to plaintiff's Third Amended Complaint within ten (10) days of the date of this Order, or show cause why they have failed to plead or otherwise defend the claims asserted against them in the Third Amended Complaint. This directive includes MDOC employees Anne L. Precythe, Matt Sturm, Valarie Moseley, Travis Terry, and Matt Briesacher given that the Missouri Attorney General received notice of service on those defendants and appears as counsel on behalf of the other Missouri state employees and agencies in the case.

Accordingly,

IT IS HEREBY ORDERED that within ten (10) days of the date of this Order, all defendants who were served with plaintiff's Third Amended Complaint – namely, Missouri Department of Corrections, Anne L. Precythe, Matt Sturm, Valarie Moseley, Travis Terry, Matt Briesacher, Angela Mesmer, Allen Thompson, and the Women's Eastern Reception, Diagnostic, and Correctional Center, shall file an answer or otherwise respond to plaintiff's Third Amended Complaint, or show cause why they have failed to plead or otherwise defend the claims asserted against them in the Third Amended Complaint.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 14th day of July, 2025.